

# SENATE RECORD VOTE ANALYSIS

105th Congress  
2nd Session

**Vote No. 90**

April 21, 1998, 4:48 pm  
Page S-3346 Temp. Record

## EDUCATION SAVINGS ACCOUNTS/Strike ESAs, Nationalize School Construction

**SUBJECT:** Education Savings Act for Public and Private Schools . . . H.R. 2646. Coverdell motion to table the Moseley-Braun amendment No. 2292.

### ACTION: MOTION TO TABLE AGREED TO, 56-42

**SYNOPSIS:** As amended, H.R. 2646, the Parent and Student Savings Account PLUS Act, will enact the compromise provisions of S. 1133, as reported, on education savings accounts and other education initiatives. It will expand the recently enacted education savings account tax credit, will provide an exclusion from gross income for distributions from qualified State tuition programs, will extend and expand the current-law section 127 tax exclusion (for employer-provided education assistance), and will assist local governments in issuing bonds for school construction by increasing the small-issuer bond exemption. The bill will also enact a proposal to give school construction aid to high growth districts. In total, approximately \$6 billion in tax relief for education over the next 10 years will be provided. That cost will be more than fully offset by modifying the employer deduction for vacation pay and by changing the treatment of the foreign tax credit carryback and carryforward periods (for increased revenues of \$6.9 billion over 10 years). The education tax credit will be expanded by increasing the annual contribution limit for education IRAs from \$500 to \$2,000 for taxable years 1999 through 2002 and by changing the definition of qualified education expenses to include kindergarten through twelfth grade (K-12) expenses (the credit currently applies only to higher education expenses).

**The Moseley-Braun amendment** would strike the education savings account provisions, and would substitute a new Federal program to give a new type of zero-interest bond, "Qualified School Construction Bonds," for financing public school capital improvements. Up to \$9.7 billion worth of such bonds would be issued in 1999 and 2000. It would also increase funding for "Qualified Zone Academy Bonds," which were created last year. Up to \$3.2 billion in bonds for the latter would be issued over 5 years. Qualified Zone Academy Bonds allow bonds to be issued for school construction that give the holders of the bonds a Federal tax credit instead of an interest payment. Authority to issue such bonds would be distributed among the States by formula. For Qualified School Construction Bonds, bonds would also be issued for school construction that would give the holders of the bonds

(See other side)

YEAS (56)			NAYS (42)			NOT VOTING (2)	
Republicans (52 or 96%)		Democrats (4 or 9%)	Republicans (2 or 4%)	Democrats (40 or 91%)		Republicans (1)	Democrats (1)
Abraham	Hutchinson	Biden	D'Amato	Akaka	Inouye	Bennett <sup>-2</sup>	Moynihan <sup>-2</sup>
Allard	Hutchison	Byrd	Specter	Baucus	Johnson		
Ashcroft	Inhofe	Lieberman		Bingaman	Kennedy		
Bond	Jeffords	Torricelli		Boxer	Kerrey		
Brownback	Kempthorne			Breaux	Kerry		
Burns	Kyl			Bryan	Kohl		
Campbell	Lott			Bumpers	Landrieu		
Chafee	Lugar			Cleland	Lautenberg		
Coats	Mack			Conrad	Leahy		
Cochran	McCain			Daschle	Levin		
Collins	McConnell			Dodd	Mikulski		
Coverdell	Murkowski			Dorgan	Moseley-Braun		
Craig	Nickles			Durbin	Murray		
DeWine	Roberts			Feingold	Reed		
Domenici	Roth			Feinstein	Reid		
Enzi	Santorum			Ford	Robb		
Faircloth	Sessions			Glenn	Rockefeller		
Frist	Shelby			Graham	Sarbanes		
Gorton	Smith, Bob			Harkin	Wellstone		
Gramm	Smith, Gordon			Hollings	Wyden		
Grams	Snowe						
Grassley	Stevens						
Gregg	Thomas						
Hagel	Thompson						
Hatch	Thurmond						
Helms	Warner						

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

a Federal tax credit instead of an interest payment. Two formulas would be used, one to distribute 65 percent of the bond authority among the States and one to distribute 35 percent to 100 large local educational agencies with large numbers of poor children. However, those formulas would be trumped by provisions that would block any bond authority from being given without prior approval from the Clinton Administration. A State would be denied bond authority unless the Secretary of Education approved a State application for that authority. Numerous detailed mandates on the contents of that application would be imposed. Those mandates would contain information on such matters as the types of repairs particular facilities needed, health and safety problems at particular facilities, areas that had higher growth rates, and exactly how the State intended to distribute the authority among particular agencies and facilities. The Secretary of Education would have complete authority to approve or to disapprove any application. Similarly, no authority would be given to any local education agency unless the Secretary of Education approved a local application for that authority, which would be subject to the same type of detailed mandates on its contents, and no limitations would be placed on the Secretary in either approving or disapproving an application. The Qualified School Construction Bond proposal would thus involve the Clinton Administration directly in examining in detail all projected uses of the bond authority and would give it full authority to deny all authority to particular States or the selected 100 local educational agencies. The estimated cost of the amendment would be \$3.3 billion over 5 years and more than \$10 billion over 10 years. All of the \$10 billion in tax benefits would go to the bondholders (large banks and other institutional lenders). In contrast, the benefits of the education savings accounts will go only to 15 million middle- and lower-income American families, who will use the benefits to save \$10 billion of their own money for education.

Debate was limited by unanimous consent. After debate, Senator Coverdell moved to table the amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**Those favoring** the motion to table contended:

Argument 1:

The Moseley-Braun amendment would create a new Federal public school construction program with a raft of complicated mandates. The amendment would effectively nationalize school construction and would provide a huge amount of aid, courtesy of all the States, to those few States that have been especially derelict in meeting their responsibilities. Perhaps most egregiously, it would not simply add this offensive proposal to the bill; it would also eliminate the educational IRA benefits that this bill will give to 15 million American families.

In rhetoric, at least, there is a degree of overlap between the supporters and opponents of the Moseley-Braun amendment. The underlying bill has two school construction elements, both of which have been retained in this amendment. The first element will increase the small issuer bond exemption for tax-exempt bonds issued by a local government to \$15 million (it is currently \$10 million), on the condition that at least \$10 million of the bonds issued are for public school construction. (The exemption is for arbitrage profits from investments unrelated to the purpose of the borrowing that a government may earn when issuing bonds that are exempt from Federal taxation. Such profits must ordinarily be rebated to the Federal Government. The exemption is given to remove for smaller governments some of the complexity involved in issuing tax-exempt bonds.) We are pleased that our colleagues agree with us that it makes sense to help out smaller governments in this manner. The second element will help high-growth school districts build new schools to accommodate rapidly growing student populations. This provision will allow States to issue tax-exempt bonds equal to \$10 per State resident. Each State will be guaranteed a minimum allocation of at least \$5 million of these tax-exempt bonds, and a total of up to \$600 million per year will be issued. The \$58 million cost of this proposal will leverage more than \$3 billion in new construction and rehabilitation of schools. Both of these elements involve little more than tax code changes that will target Federal tax relief to areas of particular need. We are pleased that such broad, bipartisan support has been found for these proposals.

Our colleagues tell us that they agree that these proposals are meritorious because they are neither bureaucratic nor intrusive. They then tell us that their proposal is similar. We strongly disagree. Their amendment would require the creation of a new Federal bureaucracy that would be required to sift through the criteria and bond allocation applications of all the States, plus it would have to sift through bond allocation applications from local educational agencies (they would get 35 percent of the authority directly). The mandates on the contents of those applications go on for pages and pages. Those mandates would be imposed for a reason. The Education Department, under the Clinton Administration, would review them and either turn a thumb's up or a thumb's down on each and ever

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would give up all control over deciding their own priorities. They by far would still be putting in the most money, but the Clinton Administration would decide what they could spend their money on. Our colleagues euphemistically call this Federal takeover of school construction a "partnership."

Except for addressing particular needs, such as rapid population growth, in a very non-intrusive manner, and providing general relief in issuing tax-exempt bonds, we question the advisability of getting the Federal Government involved in public school construction. We note also that President Clinton has not sought this control. Specifically, he has twice rejected this bond proposal, stating: "The construction and renovation of school facilities has traditionally been the responsibility of State and local governments, financed primarily by the taxpayers. We are opposed to the creation of a new Federal grant program for school construction." We suppose some Senators may have more reason than others to want to pass the Moseley-Braun amendment. For instance, Illinois, which is just 1 of the 50 States, has more than 10 percent of the country's school construction needs. Other States that have been heavily investing in their public schools, such as Georgia (which is spending nearly \$5 billion and which spent \$186 million last year to build 57 new schools and to modify 110 others), have much more modest immediate needs. Should all of the States have to pay in taxes to provide this benefit to help other States that have not been investing enough?

As bad as this proposal for a Federal takeover of school construction is, the fact that it would strike the educational savings account provisions from this bill is even worse. Our colleagues, as we have explained on prior votes, strenuously oppose those provisions because they know that they will make it possible for some children to leave failing and dangerous public schools for succeeding and safe private schools, some of which will be religious schools. They do not want children to be in failing and dangerous schools, but they do not want them to leave the public schools because those schools are unionized. Instead, they want to keep them trapped there while they try one gimmick fix after another. In this case, they are saying that all we need is bricks and mortar. We note, however, that we have been in some very well-built, well-equipped public schools in which most of the kids are performing well below grade level and which are disciplined largely by drugging the children with Ritalin. We have also been in private, principally parochial, schools in exactly the same areas drawing from the same student populations and those students have been excelling. Those schools have generally been in much poorer condition and have had much fewer resources such as audiovisual equipment. Nevertheless, this gimmick amendment says the answer is to keep the kids in public schools and add more bricks and mortar.

Education savings accounts, on the other hand, do not profess to offer a one-size-fits-all Federal solution. Instead, they empower parents. Parents will be given tax relief if they save their own money to spend on their own children's educations. Liberal Democrats, who seem to measure everything's value by how much the Federal Government is spending on it, scoff at the \$7 to \$37 per year family tax benefit that will accrue by not having the interest that is earned taxed. Why, how terrible! Parents, without the involvement of any Government beyond giving that tax relief, will save \$10 billion over 10 years to spend on their own kids' educations. Parents, who know and love their children, will decide what is best for their children, not the Federal Government. A parent with a child who is having trouble learning to read might just think it is more important to hire a tutor than to make school repairs. Under the Moseley-Braun amendment, that parent would not be given any help in hiring a tutor, but maybe, if the Clinton Administration eventually signed-off on a school construction plan, that child's school might get a new parking lot. Johnny still couldn't read, but wouldn't the school be pretty? Another parent might want to move his or her teenage daughter out of a gang-infested school. Under the Moseley-Braun amendment, no help would be given that parent--the daughter would have to stay, but maybe over several years that school would get some construction repairs. According to the supporters of the Moseley-Braun amendment, giving the estimated 15 million parents who would use education savings accounts help in providing the educational options that they think are best for their own children is much less important in every conceivable situation than is building public schools. We emphatically disagree.

Many liberal Members hope to use the Moseley-Braun amendment to advance their own political fortunes. They hope to convince the voters that because they are championing this new Federal program for building public schools they are effective and caring Senators. They have their totally untested theory that this new means of financing schools will be more effective than existing means, and they have their totally untested theory that fixing up public schools will improve the dismal quality of public education in America. Public schools have deteriorated over the past several decades as one educational theory after another has been imposed and has failed. We urge our colleagues not to inflict public schools with one more grand theory. It is time to stop imposing Government solutions; it is time to empower parents. The Moseley-Braun amendment should be resoundingly rejected.

#### Argument 2:

We favor the Moseley-Braun amendment's proposal to create a new Federal program to leverage more public school construction. Such new school construction would be beneficial in our States. However, we are even more supportive of the education savings account provisions that this amendment would strike from the bill. If the Moseley-Braun amendment had simply added its new program without striking the education savings account provisions, we would have supported it. Unfortunately, it did not, so we must support the motion to table.

**Those opposing** the motion to table contended:

The Moseley-Braun amendment offers a real alternative that would make a meaningful difference in the lives of millions of children. Instead of giving money to people who do not need financial aid so they can use that money to take their children out of the public schools, and, in many cases, to violate the Constitution by supporting religious schools, the Moseley-Braun amendment would address the huge and growing problem of deteriorating schools. It would not impose a Federal solution. Instead, it would create a Federal-State-local-private partnership. Together, all governments and the private sector would spend more than \$22 billion in 5 years rebuilding America's public schools.

According to the General Accounting Office, public schools have immediate construction needs of \$113 billion. In some States and districts the problem is worse than in others; for example, Illinois alone has \$13 billion worth of construction needs. In light of this huge need, what have our colleagues proposed? They want to give a tax benefit to wealthy Americans, which will only come to between \$7 and \$37 per year, so that they can get their children out of these schools and into private, and often religious schools. In other words, instead of facing the problem, they are proposing running away from it. Making matters even worse, they want to let the parents use their tax savings to send their children to religious schools, which we believe will violate the establishment clause of the Constitution. Poor kids will be left in the rotten, rundown schools because they will not be rich enough to take advantage of education savings accounts, and no one will care because all of the other kids will have left.

Some people might want to play a blame-game instead of giving help. They might want to say that this is just an inner-city problem, so let the cities handle it. Those people would be wrong. Roughly one third of all schools in America, be they in cities, rural areas, or even the suburbs, have urgent construction needs. The problem cuts across all region and class ties. Further, even if it were a localized problem, what would be gained by refusing help on that basis? The children who attend those schools are not to blame, and if they live in an area that does not have the resources to provide the needed repairs, they are going to be stuck in dangerous, overcrowded, crumbling buildings. Investing in children will help them succeed later in life. If we really want to get people out of poverty and dependence, the most important tool we can give them is a good education. The problem of repairing crumbling schools is not just a local problem--it is also a national problem that demands national help.

The Moseley-Braun amendment would give a significant amount of the help that is needed. For a tax benefit investment of just \$3.3 billion, it would leverage \$22 billion in new school construction and repairs. It would do so in a very hands-off manner--after the Federal Government approved State and local plans, State and local governments would be allowed to issue bonds that would pay in Federal tax relief instead of in interest. We believe that these bonds would prove to be a very popular way to finance new school construction. The resulting extra \$22 billion in construction would significantly reduce the current backlog of \$113 billion. It would thus solve nearly 20 percent of the problem. Instead of giving 15 million American families a paltry benefit in order to encourage them to abandon the public schools, the Moseley-Braun amendment would encourage State and local governments to fix up those schools. This alternative approach is clearly preferable. We therefore urge our colleagues to oppose the motion to table.